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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,625	08/04/2003	Marshall S. Kriesel	003-23	6592
47360	7590	06/16/2006		
JAMES E. BRUNTON, ESQ. P. O. BOX 29000 GLENDALE, CA 91209			EXAMINER WILLIAMS, CATHERINE SERKE	
			ART UNIT 3763	PAPER NUMBER

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/634,625	KRIESEL, MARSHALL S.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Catherine S. Williams	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 March 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4, 7, 9, 12-18, 21-23 and 29-31 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 12-17 and 29-31 is/are allowed.
- 6) Claim(s) 1-4, 7, 18 and 21-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,18 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kriesel et al (USPN 6,416,495) in view of Portner et al (USPN 4,265,241). Kriesel discloses an outer housing, an expandable housing, a constant force extension spring, fill means and dispensing means. See figure 12. The expandable housing comprises a bellows structure with an accordion-like side wall, first fill vial (46), and plurality of flow control channels (66,137). Kriesel meets the claim limitations as described above but fails to include the constant force extension spring being a coiled roll of pre-stressed material that exerts a substantially constant restraining force to resist uncoiling.

Portner discloses an outer housing, an expandable bellows housing, a constant force extension spring being a coiled roll of pre-stressed material that exerts a substantially constant restraining force to resist uncoiling, and inlet and an outlet. See figure 6. The spring provides a low intensity constant force which develops a small positive pressure on the bellows.

At the time of the invention, it would have been obvious by one skilled in the art to substitute the constant force spring of Kriesel with the coiled roll spring of Portner. The motivation would have been that provides by Portner in that the spring provides a small positive pressure for long term drug delivery.

Claims 1-2,7,18 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable Rey et al (USPN 6,416,495) in view of Portner. Rey discloses an outer housing, an expandable housing, a constant force extension spring, fill means and dispensing means. See figure 1. The device also includes flow control means 28. Rey meets the claim limitations but fails to include the constant force extension spring being a coiled roll of pre-stressed material that exerts a substantially constant restraining force to resist uncoiling.

Portner discloses an outer housing, an expandable bellows housing, a constant force extension spring being a coiled roll of pre-stressed material that exerts a substantially constant restraining force to resist uncoiling, and inlet and an outlet. See figure 6. The spring provides a low intensity constant force which develops a small positive pressure on the bellows.

At the time of the invention, it would have been obvious by one skilled in the art to substitute the constant force spring of Rey with the coiled roll spring of Portner. The motivation would have been that provides by Portner in that the spring provides a small positive pressure for long term drug delivery.

*Allowable Subject Matter*

Claims 12-17 and 29-31 are allowed.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

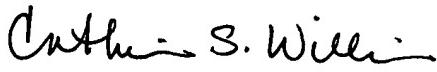
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine S. Williams whose telephone number is 571-272-4970. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Catherine S. Williams  
June 12, 2006

CATHERINE S. WILLIAMS  
PRIMARY EXAMINER